

Commentary and Enlightenment on Supervision Thought of Sun Yat-sen

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Abstract

Supervision thought of Sun Yat-sen is an important component among his theory of civil right doctrine and entire “three people” doctrine. His supervision thought offers us important lesson and enlightenment to our strengthening and perfecting power supervision mechanism and socialism nomocracy construction today. In this paper, the author introduced the content, analyzed advantages and disadvantages of his supervision thought and demonstrated the enlightenment to nomocracy construction in China today.

Key words: Supervision; Independence; Authority; Democracy

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Sun Yat-sen was a pioneer of the democratic revolution, his law thought was abundant, including his supervision thought. His supervision thought is an important component among his theory of civil right doctrine and entire “three people” doctrine. His supervision thought offers us an important lesson and enlightenment to our strengthening and perfecting power supervision mechanism and socialism nomocracy construction today.

1. GENERATION AND DEVELOPMENT OF SUPERVISION THOUGHT OF SUN YAT-SEN

Power tends to corrupt and absolute power corrupts absolutely. How to avoid corruption and ensure power

being clean and efficient? Many people have always been thinking about the question for thousands of years. According to the problem, Mr Sun put forward his supervision thoughts on the base of drawing lessons from the virtues of the traditional supervision system and western theory of powers restrictions. Although his supervision thoughts mostly succeed in the traditional supervision system, it has much innovation and transcending.

His supervision thought is a part of “five powers” constitution thoughts, its core is to emphasize the independence and authority of the supervision mechanism. In 1906, Sun Yat-sen made a speech in the anniversary celebration assembly about commemorating foundation of Tokyo “People Newspaper”, he put forward the opinion of “five powers” constitution from a point of view of enacting and carrying out a perfect new constitution after successful revolution in the future, including the independence of supervision power. Bourgeois of the day was familiar with theory and system of the separation of the three powers and worshiped it, although Sun Yat-sen put forward the opinion of the separation of legislation power, administration power, justice power, examination power and supervision power, but people of the time didn’t attach importance to the thought and most revolutionary didn’t accept it on the thought and practice. So the revolutionary founded Nanjing temporary government according to the model of the separation of three powers and supervision power belonged to the Senate, it wasn’t independent. The opinion about the separation of five powers hadn’t been put into practice.

Lately Yuan Shih-kai seized power of Nanjing temporary government and became the president of the Republic of China, he cancelled the Senate and abolished the Provisional Constitution of the Republic of China so as to the fruit of the 1911 revolution became nothing. In this case, Sun Yat-sen seriously summarized profound lesson that supervision power can’t be in dependent

and can't effectively supervise government organs and power bodies, and put forward the opinion of founding independent supervision institutions again. He emphasized that not only fully surveyed morality and ability of the elected man, but also founded a suit of effective and independent supervision institutions so as to supervise the officials who were elected through the organization system.

Tuan Chi-jui government of the northern warlords continued to discard the Senate and the Provisional Constitution, and implemented the arbitrary rule of feudal warlord after Yuan Shih-kai was overthrown. Sun Yat-sen made a war in order to the Provisional Constitution in 1917, but he failed soon. The republic of China existed in name only through a succession of frustration and failure, and feudal warlord autocratically ruled and ran rampant, the harsh facts that democracy was destroyed fully compelled Sun Yat-sen to calmly analyzed and self-reflected the reality so that make him know on two aspects of practice and theory that there is no way to change nasty political situation of warlord autocracy without a suit of independent, tight, perfect and authoritative supervision system on politic system, and there is no way to eliminate the corruption in the government of the republic of China after regime being founded. So Sun Yat-sen concentrated on studying the theory of supervision question during his late political movement. He delivered a famous speech with the title "five powers" Constitution in 1921, and designed a suit of complete and independent supervision system combining the central government with local government, combining officials with people with various levels and forms and emphasized the independence and authority of supervision system again. He explained in detail the role and function of the masses from the angle of the division of power and ability in his serious speech with the title "three people" doctrine in 1924, further enriched his supervision thought. In a word, supervision thought of Sun Yat-sen is a process of abundance, development and perfection in practice, and always associated with a political target of founding the Republic of China.

Sun Yat-sen learned the virtue of traditional supervision system and drank in western theory of power restraint, and founded his supervision thought on this basis. It is a crystal of the eastern and western thoughts. But his supervision thought couldn't be carried out in practice well. The Provisional Nanjing government practised parliamentary supervision system, the senate exercised legislation power and supervision power. The Senate and the parliament in the period of northern warlord's government both prescribed the supervision power, but both didn't fully put into practice, only was an empty shell. His supervision thought was initially tried in the period of Nanjing and Wuhan nationality Government of China. Nationality Government of China

issued a series of supervision rules and gradually built a more complete supervision system, and implemented the supervision thought of Sun Yat-sen to a certain extent. But there was some distance between the supervision system and practice of national government and the supervision thoughts of Sun Yat-sen. The supervision power hadn't yet got the independence and the authority under the political system of Nanjing nationality government, the supervision thought of Sun Yat-sen couldn't be completely and really put into practice too. But undoubtedly the supervision system of Nanjing nationality government was deeply affected by the supervision thought of Sun Yat-sen, and the effect is still clearly visible in the Taiwan supervision system today.

2. CONTENT AND EVALUATION OF SUPERVISION THOUGHT OF SUN YAT-SEN

2.1 Content of Supervision Thought of Sun Yat-sen

Sun Yat-sen didn't systematically elaborate his supervision thought, his supervision thought scattered over his speech. The main contents of his supervision thought can be summarized as follows:

2.1.1 The Supervision Power Is Independent.

The supervision power what Sun Yat-sen said was within the framework of "five power" constitution. The supervision power was independent of both the administrative department and the legislative body as "administrative power" of the government. After Sun Yat-sen investigated the constitutional government of Western countries, and he thought that the parliaments in countries with constitutions all have the supervision power at the same time, although the power was different, and always couldn't be independent, which caused quite a few drawbacks. For example, the supervision power belongs to the parliament in America, the parliament often makes free with the power and forces the administrative body to do its bidding and makes it do whatever they want, so often cause the parliament autocracy. Only these presidents with a great talent and bold vision can have achieved the target of administrative independence such as Lincoln, Madison, Roosevelt, etc. (Sun, 1956, p.87) Furthermore, he still thought that England implemented parliament system, but the political system was parliament autocracy, and then made the government disability. So the separation of three powers in foreign countries has much drawback.

Ancient China has independent impeachment power and examination power deviating from emperor power since the Tang dynasty. So ancient China was also the separation of three powers, but it had much drawback. The foundation of political system was that collecting the essence of China and foreign countries and avoiding

all disadvantages, and adopting three powers of foreign countries namely legislative power, administrative power and judicial power and adding two powers of China namely examination power and supervision power, and producing the government of the separation of five powers. It was the most complete government like this. A country had the best government and could realize “of the people, by the people, for the people”. (Sun, 1956, p.763) This shows that Sun Yat-sen claimed the independence of supervision power, his purpose was to fill up the disadvantage of the drawback of supervision power belonging to the parliament with Chinese traditional supervision system and change the autocratic monarchy through power separation system of Western countries, and finally found democratic politics.

Sun Yat-sen thought that Western supervision powers belonging to the parliament made supervision power lose its independence. He learned the traditional supervision system and made supervision power to get the independence and become five aspects of government power opposed with legislative power, which showed that Sun Yat-sen attached importance to power supervision and also reflected the inherent requirement of supervision power. Main purpose of Sun Yat-sen proposing the independence of supervision power is to make supervision power from the parliament, weaken the power of the parliament and strengthen the power of the government, cause a powerful “omnipotence government”. (Liu, 2004)

The emphasis of Western power’s restriction and balance was to restrain administrative power with legislative power. The parliament took supervision to finance and administration besides legislative power and got the advantage in country’s power structure in 18 and 19 centuries. But people were not satisfied with “night watchman” role of the government, and asked the government for actively interfering the society to promote the development of economy and society and promote people’s welfare since 20 century. Social development brought forward a new requirement, but legislative power restricted the exertion of administrative power. The expansion of administrative power became a general phenomenon of power variety in 20 century, executive-led also became evolvement trend of Western politics power. In recent years of Western countries, administrative power was too small because parliament’s power was too great so as to administrative efficiency was too low, Sun Yat-sen saw the disadvantage and put forward the measures, which reflect the objective requirement and rule of the exertion of administrative power to a certain extent.

Sun Yat-sen claimed that supervision power was independent from legislative power and attributed it to rule power of the government to strengthen the government’s power, which reflected the objective requirement of China modernization. The Chinese modernization movement of one hundred year was a movement of washing disgrace

and pursuing prosperity. Nationality independence and prosperity were the fundamental objective of the Chinese modernization movement. Recent modern Chinese including Sun Yat-sen all faced a difficult choice: democracy needs separation of powers, but nationality independence and prosperity need a powerful government. How to solve the contradiction between democratic politics and powerful government? The opinion of Sun Yat-sen strengthening government powers reflects the objective requirement of country modernization.

2.1.2 The Supervision Council Exercise Unified and Full Supervision to Country Powers

The supervision council was the highest power supervision organization, other four councils of the government all received the supervision of the supervision council, and “the supervision council impeached the personnel who had neglected their duties to the parliament”. From the description of Sun Yat-sen, supervisory targets of the supervision council were extensive, including all power organ of state. Supervisory content was illegal and negligent activities of all government organ and public officer. But the supervision council only held impeachment power, and had no trial power to the impeached case and discipline power to the impeached person, namely the parliament was in charge of sanctioning the officers, the supervision council couldn’t do. The authority of the supervision council was similar to traditional supervision power of China, only had impeachment power and none direct sanction power. On the design of the supervision organ, Sun Yat-sen also followed the Chinese tradition and founded a special organ to implement the supervision power.

Sun Yat-sen claimed to adopt an independent leader system to the organization of the supervision council, under it the supervision officers exercised the impeachment power. About the appointment of the President of the supervision council, “construction plan of the national government” which Sun Yat-sen drew up with his own hands prescribed: central rule power is ruled by the national congress after the Constitution is enacted, namely the national Congress has election and removal power to the government officers. The candidate for the president of the supervision council should be decided by the national Congress. To the authority of the supervision body, Sun Yat-sen thought that the supervision power originated from ancient Chinese imperial supervisor system, so the impeachment power was mainly authority of the supervision body.

2.1.3 The Supervision Power Must Receive the Supervision of the People

Founding democratic republic which its sovereignty belongs to the people was the ideality that Sun Yat-sen had struggled all his life for, he thought that western representative system was indirect democracy and not real democracy, it was real democracy only just the people

had rights to elect the officers, recall the officers, put forward legal motion, vote to pass legal motion. Sun Yat-sen divided country powers into politics right and rule power, politics power was “power” and “the strength of managing the government”, and “should be totally given to the hands of people so as to make the people have enough politics power and immediately manage national affairs”. Rule power was “ability” and “the strength of the governments themselves”, and “should be totally given to the governments so as to make the governments have great force and administrate national affairs”. (Sun, 1981, p.793) The people held “politics power” to control and supervise “rule power”.

People immediately exercised four powers to supervise five powers of the governments including supervision power through local self-government below the county level. People supervised “rule power” through the national Congress above the county level, supervisory council was responsible to the national Congress. If supervisory personnel neglected their duties, the national Congress impeached and dismissed them from their posts by itself. All kinds of evils and vulgarities that appeared in the Western representative system and parliamentary politics practice in the early years of republic of China made Sun Yat-sen deeply denote suspicion and negation to indirect democracy in the form of the representative system, so he designed a national Congress beyond politics as the highest authority. People held politics power through the national Congress to restrain and supervise rule power and guarantee country power be restrained and supervised in the form of “direct democracy” and “national politics” and the democracy be really realized, that embodied his thought of “people sovereignty” and his philosophy of “national politics”.

2.2 Evaluation of Supervision Thought of Sun Yat-sen

Supervision thought of Sun Yat-sen is an important content of his theory of people right doctrine, and is sublation and development of Chinese ancient supervision theory and system, and is utilization and development of power separation doctrine of Western bourgeois in the sides of Chinese supervision theory and system. Supervision power implementing independent supervision system is different from not only Chinese ancient supervision system but also supervision system of western capitalism country. It was his innovation on supervision theory. The innovation has important status in the history of Chinese supervision system, and has a certain reference value to our studying how to do well in supervision work. Of course, supervision thought of Sun Yat-sen, especially the supervision system which he designed, also shows some obvious disadvantage.

First, Sun Yat-sen brought supervision power into constitutional architecture in the form. One side of the core of constitutional government is to maintain and

guarantee civil rights, the other side is to restrict and defend against country power, and the emphasis is to coordinate the relation between country powers and civil rights. The supervision thought of Sun Yat-sen is on the basis of constitutional architecture, which is progress over against Western Constitution with the separation of three powers.

Second, Sun Yat-sen always claimed that supervision power should be independent. His supervision thought is a complete system, a part of whole revolution thought, the crystallization of his studying political history of China and foreign countries, and also the summary of his experience of cruel politics struggle. Independence is guiding ideology of the supervision system which Sun Yat-sen founded. The supervision power was separated from administration power, legislation power, justice power and examination power. The supervision council was directly responsible for the national Congress and not disturbed and contained by administration, legislation, justice and other agencies, and especial independent. Direct civil rights were exercised at the primary level for county posts, vote and removal rights were held in people’s hands, the supervisory independence was greater and not disturbed and restricted by any department. Independence was the fundamental point of supervision thought of Sun Yat-sen and also an important feature of the supervision system which he designed.

Thirst, supervision power was subordinated to civil rights, and respected the status and strength of the common people. Rulers were impossible to exert functions of the people in the model of traditional supervision, because the people were the objects that the royal authority took precautions against. But Sun Yat-sen divided country in “rule power” and “politics power”, “politics power” was held by the people, and controlled and supervised “rule power”. That embodied the thought of people sovereignty and the ideology of national politics and also reflected the essential difference of supervision thought and system between Sun Yat-sen and feudal autocracy society. Supervision power was subordinated to civil rights, supervision power received people’s supervision, and it was an essential transcendent of supervision power of “five powers” Constitution against traditional supervision power. It is a great progress.

Of course, supervision thought of Sun Yat-sen has some obvious shortcomings too, especially the supervision system which he designed. For example, he didn’t express that what organizational form and procedure the people used to supervise and dismiss the officers at the county level from their posts, and didn’t express that the problems of the relation and connection between supervision branch of country and province levels and supervision system of the masses at the county level too, and didn’t deal with setup problem of supervision at the province level, and so on. But Sun Yat-sen had already basically evolved his

supervision thought system, and put forward many novel viewpoints which were valuable. His supervision thought plays an active role with experience and enlightenment to the perfection of supervision system today.

3. ENLIGHTENMENT OF SUPERVISION THOUGHT OF SUN YAT-SEN

In accordance with what is said above, enlightenment of supervision thought of Sun Yat-sen is as follows:

3.1 Founding Independent and Authoritative Supervision Institution

How to effectively supervise and restrict public power is a problem that every country is facing. Although our country has founded a set of more complete administration supervision system, there are many shortcomings in fact. Active supervision mechanism of our country weakens the authority of supervision institution, supervision bodies are short of relatively independent status and means of independently exercising the powers, which results in being restricted while exercising the powers. On one side, administrative supervision institutions of our country carry out the double leadership system with the supervisory authority at the next higher level and local government. Article 7 of Law of the People's Republic of China on Administrative supervision stipulates: "A supervisory organ of a local people's government at or above the county level shall be responsible for supervision in its administrative area, and shall be responsible and report its work to the people's government to which it belongs and to the supervisory organ at the next higher level. Supervision shall be enforced mainly under the guidance of the supervisory organ at a higher level." Article 7 of law of the people's republic of China on administrative supervision also stipulates: "Major supervisory decisions and recommendations made by a supervisory organ shall be submitted to the people's government to which it belongs and to the supervisory organ at the next higher level for consent. Major supervisory decisions and recommendations made by the supervisory organ under the State Council shall be submitted to the State Council for consent." On the other side, the supervision institution exists within the establishment of the government at the same level, its activities expenditure and wages, bonus and welfare of staffs are controlled by the government at the same level. The result is that supervision institution dare not supervise, so we must found an independent and authoritative supervision institution.

3.2 Fully Exerting the Supervision Function of the People

The supervision of the people is always effective ways of developing socialism democracy. The supervision of the people best embodies the supervision forms of all powers belong to the people and the people being the masters of the country, it can most directly reflect the suggestions of the broad masses to managing national affairs in comparison with all kinds of state compulsory supervision system. We should absorb and guide the people to directly take part in managing the country and society to the greatest extent if we want to cultivate socialism with high levels, which is in accordance with starting point of directly civil rights of Sun Yat-sen. The consciousness and ability of the people participating country management can have been gradually cultivated in the supervision activities.

3.3 The People Supervises the Supervision Institution

We need grant the supervision institution corresponding powers for the performance of its duties, but the supervision institution must assume corresponding responsibility while the people grant it powers, it must be responsible for the subject who grants supervision power. The responsibility of neglecting its duty must be investigated if the supervision institution causes serious consequences without strict supervision. Independent supervision institutions are in charge of supervising administrative organs and other state organs, which produce a benign cycle and prevent the personnel of the governments from corruption and abuse of power.

Sun Yat-sen absorbed and learned from excellent achievements of supervision thought in ancient China and modern west on the basis of criticizing them and formed his distinct opinion, which gives us great inspiration and referential effect for the question how to effectively restrict and supervise the power. The supervision thought and relative practice of Sun Yat-sen inspired us that we should strive for absorbing excellent supervision thought and supervision system experience in modern or ancient times, in China or elsewhere and found more reasonable and democratic supervision system according to our country's circumstances.

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